

MARLBORO TOWNSHIP COUNCIL MEETING

MARCH 11, 2004

The Marlboro Township Council held a regularly scheduled Council Meeting on March 11, 2004 at 7:30 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Mione opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice that this meeting will start at 7:30 PM for the purpose of of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on February 27, 2004; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Burrows, Council Vice President Denkensohn, Councilwoman Morelli, Councilman Pernice and Council President Mione.

Also present were: Mayor Robert Kleinberg, Michael Gluck, Esq., Andrew Bayer, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

At 7:35PM, Councilman Pernice moved that the meeting go into executive session for reason of discussing personnel, acquisition of property, contract negotiations and litigation. This was seconded by Councilman Burrows, and as there was no objection, the Clerk was asked to cast one ballot.

RESOLUTION # 2004-75

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 11th day of March, 2004 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, personnel and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 30 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action will be taken following the executive session.

At 7:50 pm, Council Vice President Denkensohn moved that the meeting be opened. This was seconded by Councilwoman Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

Recess was called, and the meeting reconvened at 8:00 PM in the Town Hall.

Council President Mione announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 5, 2004; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Burrows, Council Vice President Denkensohn, Councilwoman Morelli, Councilman Pernice and Council President Mione.

Also present were: Mayor Robert Kleinberg, Michael Gluck, Esq., Andrew Bayer, Esq., Business Administrator Chris Marion, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

Regarding Item #4 (PRESENTATION - PMK Group - Non-point Source Pollution Regulations/Requirements) - Business Administrator Chris Marion introduced PMK Project Manager Christopher E. Gulics who gave a brief presentation to update Council on federal regulations addressing what DEP considers non-point sources of pollution entering the storm water system. He explained six steps that are required in the Municipal Stormwater Regulations program. He submitted

to Mayor and Council a guide and summary of the new State basic requirements. There was a brief question and answer session between Council, Administration, Township Engineer Bill Schultz and Mr. Gulics.

Citizen's Voice

Thomas & Dorothy Corrado - 68 Station Road - Mr. Corrado spoke about severe flooding and drainage issues on his property for the past eight years. There was a brief question and answer session between Mayor, Council and Administration. Mayor and Council members expressed their concerns. Mr. Corrado submitted pictures, a video and phone number for the record. Administration will look into the matter and set up a meeting with Mr. & Mrs. Corrado.

Pat Hechko - 789 Banyan Court - asked various questions - pertaining to the alleged illegal rental of affordable housing units at Pointe de Jardin. She submitted various questions to Mr. Marion and discussion followed.

Peter Bellone - 157 Tennent Road - voiced concerns regarding a Zoning Board applicant for site plan approval subsequent to receiving approval for a use variance for a subdivision at Tennent Estates. There was a question and answer session between Council and Mr. Bellone.

Lisa and Paul Rabig - 261 Tennent Road - Mrs. Rabig spoke about severe flooding and drainage issues on her property that she feels is being caused by the construction of the Deep Run Brook development. Mayor Kleinberg and Township Engineer William Schultz explained the cause of the flooding. There was a brief question and answer session between Mayor, Council and Administration.

Donna Pardee - 213 Tennent Road - updated Council on her drainage problem which she feels is caused by the construction of the Eagles Nest Development. She also submitted pictures and a March 2004 video of her flooding problem. Business Administrator Chris Marion submitted a January 29th memorandum from Township Engineer William Schultz. There was a brief discussion between Council, Business Administrator Chris Marion, Township Engineer William Schultz.

Harold Zwick - 20 Caldwell Terrace - introduced himself to Council as the liaison to the Township from Greenbriar at Marlboro. He wished all the newly elected officials good luck in their new positions and asked for an update on the re-codification, which was addressed by Council President Mione.

Heather Taylor - Common Cause Communication Director - asked Council to reconsider including the county party in its current Ordinance.

Mayor Kleinberg, Council President Mione and Council Vice President Denkensohn thanked Business Administrator Christopher Marion for his dedication and hard work and presented him with a gift. Mr. Marion thanked all for their confidence and support for the past years.

The following Res. # 2004-76/Ord. # 2004-1 (Bond Ordinance - Hawkins Road Park Improvements) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor. Business Administrator Chris Marion explained. There was a brief question and answer session between Mayor, Council and Administration. Township Engineer William Schultz will update Council at the March 25th Council meeting.

RESOLUTION # 2004-76

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2004-1

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN
THE COUNTY OF MONMOUTH, NEW JERSEY PROVIDING
FOR IMPROVEMENTS TO HAWKINS ROAD PARK
LOCATED IN THE TOWNSHIP AND APPROPRIATING
\$59,765 THEREFOR FROM THE TOWNSHIP'S CAPITAL
ACCOUNT - RESERVE -HAWKINS PARK - SCHMELZER

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for

final passage on March 25, 2004 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2004-1

AN ORDINANCE OF THE TOWNSHIP OF
MARLBORO, IN THE COUNTY OF MONMOUTH,
NEW JERSEY PROVIDING FOR IMPROVEMENTS
TO HAWKINS ROAD PARK LOCATED IN THE
TOWNSHIP AND APPROPRIATING \$59,765
THEREFOR FROM THE TOWNSHIP'S CAPITAL
ACCOUNT-RESERVE-HAWKINS PARK-SCHMELZER

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The sum of \$59,765 is hereby appropriated from the Township of Marlboro, in the County of Monmouth, New Jersey (the "Township") Capital Account - Reserve - Hawkins Park - Schmelzer for the purpose of providing improvements to Hawkins Road Park located in the Township.

Section 2. The capital budget or temporary capital budget, as applicable, of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or temporary capital budget, as applicable, and capital program as approved by the Director of the Division of Local Government Services is on file with the Township Clerk and is available there for public inspection.

Section 3. After passage upon first reading of this Ordinance, the Clerk of the Township is hereby directed to publish the full text of the Ordinance, together with the notice set forth below entitled: "NOTICE OF PENDING ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19, at least seven days prior to the date set for public hearing and further consideration for final passage (which date shall be at least ten days after

introduction and first reading). The Clerk is further directed to comply with the all provisions of N.J.S.A. 40A:2-17(b) regarding postings, publications and the provision of copies of this Ordinance.

Section 4. After final adoption of this Ordinance, the Clerk is hereby directed to publish the full text of this Ordinance, as finally adopted, together with the notice set forth below entitled: "NOTICE OF ADOPTION OF ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19.

Section 5. This Ordinance shall take effect as provided by law.

The following Resolution # 2004-77 (2004 Mosquito Spraying Program) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-77

BE IT RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that it does hereby authorize the Monmouth County Mosquito Extermination Commission to apply pesticides from aircraft to control mosquitoes over portions of the Township of Marlboro.

We understand that all pesticides used are approved for aerial application by the State and Federal governments.

It is further understood that the areas being treated are only those found to have a significantly high mosquito population and may present either a public health nuisance or disease factor.

This approval is subject to the Monmouth County Mosquito Extermination Commission notifying the local police department prior to each and every application.

The following Resolution # 2004-78 (Authorizing Contract MOA-Related Activities for Block 159, Lot 1 and Block 160, Lot 8 (DiMeo Property) was introduced by reference, offered

by Council President Mione, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-78

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL SERVICES BETWEEN SCHOOR DEPALMA ENGINEERS AND CONSULTANTS AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF SITE REMEDIATION SERVICES REQUIRED FOR THE ACQUISITION OF TOWNSHIP PROPERTY KNOWN AS THE DIMEO PROPERTY, BLOCK 159, LOT 1 AND BLOCK 160, LOT 8 UNDER A MEMORANDUM OF AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

WHEREAS, the Township of Marlboro received a Remedial Alternatives Analysis dated July 14, 2003 from Schoor DePalma Engineers and Consultants ("SD") based on Site Investigation and Remedial Investigation data collected by SD with respect to the Dimeo Property, Block 159, Lot 1 and Block 160, Lot 8 (collectively, the "Dimeo Property") which contained recommendations for site remediation activities consistent with proposed future use of the Dimeo Property; and

WHEREAS, SD has submitted a proposal dated March 5 2004 (the "Proposal") to the Township of Marlboro for site remediation activities for the Dimeo Property to be performed under a Memorandum of Agreement with the New Jersey Department of Environmental Protection, for a lump sum fee of \$30,250.00; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire SD to undertake the site remediation of the Dimeo Property as outlined in the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the

office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a contract, in a form legally acceptable to the Township Attorney, between SD and the Township of Marlboro for the provision of site remediation services required for the acquisition of the Dimeo Property for a lump sum fee of \$30,250.00 and in accordance with the terms, specifications and conditions of the Proposal; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Schoor DePalma Engineers and Consultants
- b. William Schultz, Township Engineer
- c. Township Administrator
- d. Township Chief Financial Officer
- e. Gluck, Walrath and Lanciano, LLP

The following Resolution # 2004-79 (Award of Bid - Curbside Bulk Collection) was introduced by reference, offered by Councilwoman Morelli, seconded by Council President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-79

A RESOLUTION AUTHORIZING A BID AWARD TO FREEHOLD
CARTAGE, INC. FOR THE PROVISION OF CURBSIDE BULK
COLLECTION SERVICES FOR THE TOWNSHIP OF MARLBORO
DIVISION OF PUBLIC WORKS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of curbside bulk collection services for the Township of Marlboro Division of Public Works; and

WHEREAS, the bid specifications provide for a one-year contract with the option by the municipality to extend the contract year-by-year for up to four (4) additional years; and

WHEREAS, one (1) bid was received from the following:

1. Freehold Cartage, Inc., 825 Highway 33, P.O. Box 5010, Freehold, New Jersey 07728 for the amount of \$115,000.00 for 2004; \$138,000.00 for 2005; \$165,600.00 for 2006; \$198,700.00 for 2007 and \$238,000.00 for 2008; and

WHEREAS, Administration and the Division of Public Works have reviewed the bids received and recommend that a one-year contract for 2004 with the option by the municipality to extend the contract year-by-year for up to four (4) additional years be awarded to Freehold Cartage, Inc. as the lowest responsive bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Freehold Cartage, Inc., for the provision of the aforesaid products and services.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is authorized to execute a one-year contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Freehold Cartage, Inc. for the provision of curbside bulk collection services in accordance with the bid proposal submitted by Freehold Cartage, Inc., which is on file with the Township, for the amount of \$115,000.00 and with the option by the municipality to renew the contract year-by-year for up to four (4) additional years.

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Freehold Cartage, Inc.
- b. Superintendent of Public Works
- c. Township Office of Public Information
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Gluck, Walrath and Lanciano, LLP

The following Resolution # 2004-80 (Setting Special Council Meeting - Budget Discussions - March 24, 2004 - 8 PM) was introduced by reference, offered by Councilwoman Morelli, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-80

WHEREAS, Mayor Robert Kleinberg previously called a "Special Meeting" of the Marlboro Township Council to take place on March 16, 2004 at 8 PM at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey 07746; and

WHEREAS, the purpose of the meeting is to hold budget discussions and to take action on a resolution appointing the Township Auditor, and that Citizen's Voice will be limited to 15 minutes; and

BE IT RESOLVED that the Marlboro Township Council also wishes to hold an executive session to discuss personnel and contract negotiations during that meeting.

BE IT FURTHER RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on March 24, 2004 at 8:00 PM at the Marlboro Municipal Complex (New Caucus Room), 1979 Township Drive, Marlboro, N. J. 07746. The purpose of the special meeting is to hold budget discussions. Citizen's Voice will be limited to 15 minutes. It is anticipated that no action will be taken. Personnel matters will be discussed in executive session.

The following Resolution # 2004-81 (Appointing Acting Business Administrator Judith Tiernan) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Burrows and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-81

RESOLUTION ADVISING AND CONSENTING AS TO THE APPOINTMENT OF
JUDITH TIERNAN AS THE ACTING BUSINESS ADMINISTRATOR OF
THE TOWNSHIP OF MARLBORO

WHEREAS, a vacancy exists in the position of Township of Marlboro Business Administrator; and

WHEREAS, Mayor ROBERT KLEINBERG has previously advised the Township Council that pursuant to Section 4-30 of the Code of the Township of Marlboro he is appointing JUDITH TIERNAN Acting Business Administrator until such time as a permanent Business Administrator is selected and appointed by him.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that it hereby advises and consents to the appointment of JUDITH TIERNAN as Acting Business Administrator to perform those duties required by law until such time as a permanent Business Administrator is selected and appointed by the Mayor and authorizes the Mayor to enter into an employment contract with Judith Tiernan and/or establish a compensation arrangement acceptable to the Mayor and Ms. Tiernan.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Judith Tiernan
- b. Township Administrator
- c. Gluck, Walrath and Lanciano, LLP

The following discussion items were deleted from the agenda: Item #12 (Bond Release Shallowbrook), Item #13 (Bond Release Bella Vista Estates), Item #14 (Bond Reduction/Release Bell Medical Service) and Item #15 (Bond Release Sunrise Assisted Living Facility).

Regarding Item 19 (Ordinance for Illegal Rentals of Affordable Units) - Andrew Bayer, Esq. explained that the primary changes in the proposed Ordinance were as follows: the ordinance would empower the local affordable housing agency to take action against a homeowner who sells or leases affordable housing units above market rates as

directed by the State of New Jersey, the affordable housing agency would have the authority to file a complaint in Court against the owner and the violation would be a fine of not more than \$1,250 per day or imprisonment not to exceed 90 days or both, the township could bring action against the owner and the monies would be dedicated to the Township's affordable housing trust fund and the owner (violation) would have to pay for the relocation of the innocent tenant. There was a brief discussion between Council members and the legal department. Consensus of Council was to place this ordinance on the March 25th agenda.

Regarding Item #16 (Drainage Issues - Marlboro Summit) - Council members spoke about their observations of the site and voiced concerns. Township Engineer William Schultz explained various drainage issues and problems. Andrew Bayer, Esq. stated that the developer's attorney, Henry Hill, wrote a letter on behalf of the developer informing the governing body that the developer will initiate litigation if Council does not release his performance bond for Marlboro Summit. There was a brief discussion between Mayor, Council and Administration. This matter will be placed on the March 25th Agenda.

Regarding Item #17 (Bond Reduction Commerce Bank) - Township Engineer William Schultz explained that he recommends the bond reduction, and stated that the bond cannot be released until the traffic light is up and operative. Action on the bond reduction will be taken at the March 25th meeting.

Regarding Item #18 (Revising Pay to Play Ordinance) - Councilman Pernice suggested amending the current Ordinance to include limitations on political contributions made through the Monmouth party committee or to any political action committee referred to as PAC (Political Action Committee). There was a brief discussion between Mayor Kleinberg, Council and the legal department. Councilman Pernice asked Council to move forward on a first reading at the March 25th meeting.

Regarding Item #20 (Ordinance Permitting Appeals to Governing Body of Zoning Board decisions on use variances) - Councilwoman Morelli gave various reasons for her support of this ordinance. There was a brief discussion between Mayor, Council and the legal department. Councilwoman Morelli asked Council to move forward on a first reading at the March 25th meeting.

Regarding Item #21 (Agricultural Board) - Councilwoman Morelli explained that the establishment of an Agricultural Board would assist in preservation of farmland and help with grants. Councilwoman Morelli will get more information, and consensus of Council was to move forward at a later date.

Regarding Item #22 (Ordinance Requiring Builders to Post signs on Properties to be developed when submitting applications to Planning or Zoning Board) - Councilwoman Morelli explained the ordinance. Council Vice President Denkensohn asked for the legal dept. to look into the constitutionality of the proposed Ordinance prior to introduction at the March 25th meeting.

There was no Good & Welfare.

At 10:40PM, Councilwoman Morelli moved that the meeting go into executive session for reason of discussing acquisition of property, contract negotiations and litigation. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot. Recess was held, and the executive session commenced at 10:55 PM.

RESOLUTION # 2004-86

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 11th day of March, 2004 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely, personnel and contract negotiations.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing

said aforementioned items and that such executive session should take approximately 45 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 11:30 pm, Council Vice President Denkensohn moved that the meeting be opened. This was seconded by Councilwoman Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

At 11:35 pm, Council President Mione moved that the meeting be adjourned. This was seconded by Council Vice President Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED:

OFFERED BY:

AYES:

SECONDED BY:

NAYS:

ALIDA DE GAETA
MUNICIPAL CLERK

JAMES MIONE
COUNCIL PRESIDENT